IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13823 of 2004

Between:

Mohd.Sardar Pasha, S/o Mohd.Afzal Pasha,
R/o 8-2-583/7/1, Banjara Hills, Hyderabad

..... PETITIONER

AND

The Regional Passport Officer, Passport Office, Secunderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue the writ or orders more particularly writ of Mandamus declaring the action of the respondent not considering the representation of petitioner for correction of date of birth in the passport and not making the change of date of birth in passport arbitrary, illegal, null and void and apart from the letter and spirit of constitution of India and consequently direct the respondent to correct the date of birth as 3-3-1983 instead of 27-3-1979 in passport of petitioner No.B3745742 issued on dated 14-09-2001 and issue the passport to the petitioner and pass such other order or orders at this Hon'ble Court deem fit and proper in the circumstances of case and in the interest of justice

Counsel for the Petitioner:MOHD.MUMTAZ PASHA

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

ORDER:

This writ petition is filed seeking a declaration that the action of the Passport Issuing Authority, respondent herein, in not carrying out the correction of date of birth in his passport, is illegal, arbitrary, unconstitutional and violative of Articles 19 and 21 of the Constitution of India, and consequently direct the respondent to correct the date of birth as 3.3.1983 instead of 27.3.1979 in passport of petitioner bearing No.B3745742 issued on 14.9.2001, and issue a fresh passport.

It is the case of the petitioner that he was born on 3.3.1983. In 2001, he applied for passport and in the application for passport inadvertently he mentioned the date of birth as 27.3.1979. Accordingly, passport bearing No.B3745742 was issued on 14.9.2001 showing his date of birth as 27.3.1979. He approached the respondent on 8.7.2004 with a request to change the date of birth in the passport. The respondent refused to correct the date of birth of petitioner. Hence, the present Writ Petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such

cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 3.3.1983. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18-4-2001.

Following the judgment of this Court in ***Ali Imran*** (supra), this writ petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/03/0018052/O, dt.10.6.1999 issued by the Secretary, Board of Secondary Education, Andhra Pradesh, and to pass appropriate orders in the light of the observations made in the above judgment. There shall be no order as to costs.

5.8.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Regional Passport Officer, Passport Office, Secunderabad

2.2CD copies.